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SUPREME COURT OF THE UNITED STATES

JOHN E. RUST *v.* FRANK O. GUNTER ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE EIGHTH CIRCUIT

No. 89-5900. Decided June 11, 1990

The motion of Alvin J. Bronstein, Esquire, to withdraw as counsel for the petitioner is granted. The judgment is vacated and the case is remanded to the United States Court of Appeals for the Eighth Circuit for further consideration in light of the representations made by counsel for petitioner appointed by the Court in his motion to withdraw as counsel filed May 22, 1990, the response to that motion filed by respondent May 30, 1990, and petitioner's motion for appointment of counsel filed June 4, 1990. The motion of petitioner for appointment of new counsel is denied as moot.

JUSTICE STEVENS, concurring.

While I join the Court's disposition, I believe it is appropriate also to call the Court of Appeals' attention to our decision in *Neitzke v. Williams*, 490 U. S. — (1989)—a case that it apparently overlooked when it entered its earlier judgment.

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